Supreme Court, U.S.
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No. 05-845

In The

Supreme Court of the United States

JORDAN BLAIR,

Petitioner,

vs.

BOB WILLS, aka BOBBY RAY WILLS, aka W. B. WILLS, BETTY SUE WILLS, SAM GERHARDT, BO GERHARDT, DEBORAH GERHARDT, JULIE GERHARDT, DREW PARRISH, ROBERT O'BRIANT, ROBERT KENNEDY, dba MOUNTAIN PARK BOARDING ACADEMY, and PALM LANE BAPTIST CHURCH, INC.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eighth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1) Is a private reform school exempt from the Fair Labor Standards Act (FLSA) where it held Petitioner, then a 17 year old high school graduate, to forced labor at such jobs as fence building, pond digging, cattle herding, etc., based upon the bare assertion that the labor was "primarily" for the benefit of the Petitioner?

2) Is a court ordered committing Petitioner to Respondent's private reform school, with the Respondents' full knowledge that the juvenile was sent by order of an Arkansas court, sufficient to permit a finding of "state action" for purposes of 42 U.S.C. § 1983?

3) Is a private detention facility answerable for false imprisonment of a mature minor, in the absence of any legally valid delegation of authority to detain the minor?

4) Is a juvenile deprived of due process when his opponent is permitted to claim that Respondents' detention facilities teach cleanliness, yet Petitioner cannot show that the Respondents have forced juveniles in their care to eat their own vomit, urinate and defecate on themselves for lack of toileting privileges, etc.?

PARTIES TO THE PROCEEDING

The caption contains the names of all parties in the case below, except defendants Bill Cavitt, Aaron Smith, and Mike Pardos.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Jordan Blair respectfully requests that a writ of certiorari be issued to review the judgment of the Eighth Circuit Court in this case.

OPINIONS BELOW

The December 2, 2002 order and judgment of the US District Court for the Eastern District of Missouri, dismissing Petitioner's 1983 claim, is reproduced as App. 1. A March 2, 2004, District Court order dismissing Petitioner's claim for false imprisonment is reproduced as App. 2, and the memorandum is reproduced as App. 3. An April 14, 2004, District Court order dismissing Petitioner's FLSA claims is reproduced as App. 4. A judgment on a $20,000 jury verdict entered the same day is reproduced as App. 5. Bo Gerhardt moved for a new trial, remittitur, or amendment of the judgment to deny Petitioner costs. The District Court memorandum and order dated June 8, 2004, denying this motion in its entirety is reproduced as App. 6. On May 11, 2004, Petitioner appealed the denial of the false imprisonment, FLSA, and 1983 claims. Respondent Bo Gerhardt cross appealed the $20,000 judgment for battery and the denial of the motion for new trial, remittitur, and denial of costs in favor of Petitioner. According to the briefing schedule, the opening brief was originally due August 5, 2004. The time for Petitioner's brief was extended to the August 26, 2004 pursuant to order dated 7-30-04, and a brief was timely filed. The District Court's opinion was affirmed on direct appeal, reversed and remanded on cross appeal, in a panel decision dated August 25, 2005, reproduced as App. 7. A timely petition for rehearing and rehearing en banc was filed, which was denied at the direction of the Court on September 29, 2005, reproduced as App. 8. Therefore, the petition for certiorari is due December 28, 2005.

STATEMENT OF JURISDICTION

Jurisdiction to appeal from the District Court to the Eighth Circuit Court of Appeals is found in 28 U.S.C. § 1291, for appeal from a final decision of the United States District court. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), for a petition for writ of certiorari to the 8th Circuit Court of Appeals.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

US Constitution Amendment 5, providing that "No person shall . . . be deprived of life, liberty, or property without due process of law. . . . "

US Constitution Amendment 7, providing that "In suits at common law. . . . The right of trial by jury shall be preserved. . . . "

US Constitution Amendment 14, providing that "Nor shall any state deprive any person of life, liberty, or property, without due process of law. . . . "

STATEMENT OF THE CASE

Petitioner was sent to Mountain Park Boarding Academy[1] less than a month before his 17th birthday. Petitioner's father had choked Petitioner to the point of unconsciousness, and admitted in deposition that part of his reason for seeking charges against his son was the concern that a complaint would be made against him for child abuse.

Petitioner's father accused Petitioner in juvenile court of destroying the property of his parents. Petitioner, who had a key to the family home, was deprived of the key without explanation. Petitioner had for many weeks generally used a back door or window for entry to the home, with the full knowledge and apparent acquiescence

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[1] Hereinafter sometimes "Mountain Park."

of his parents. However, on one occasion Petitioner found the windows locked, and forced the door open. The damage was minimal with repairs consisting of renailing a piece of wood. Petitioner left to stay with a brother in another town. No one contends that Petitioner didn't have a right to be in the house, or that he entered for the purpose of stealing or other unlawful purpose, but simply that he entered improperly.

Petitioner was also accused of having assaulted his brother. The brother, in deposition, denied recollection of the alleged assault. Petitioner's father was the sole accuser of Petitioner at the juvenile delinquency hearing. Petitioner's father "proved" the case with hearsay evidence of the assault and proof that Petitioner had forced entry into his own home after having been denied any other form of entry.

The charges against Petitioner were found "true." Petitioner was immediately ordered to "successfully complete in-patient residential treatment at Baptist Boys Academy in Missouri . . . " remanded to the custody of the sheriff, and transported the same day to Mountain Park in Missouri, where Respondents' employees assisted in unloading Petitioner and taking him into the locked compound of the Respondents.

Petitioner, immediately upon arrival at the private reform school, asked for an opportunity to speak to an attorney in order to appeal the adverse court decision and in order to file a Family In Need of Services Petition. Respondent Bo Gerhardt slammed Petitioner against a wall and told Petitioner that he did not have any legal rights while at Respondents' facility. Respondent Sam Gerhardt told Petitioner that he would kill his own son, Bo Gerhardt, if he ever had the audacity to file a court complaint against Sam Gerhardt. This threat, and the unexplained disappearance of various former detainees held by Respondents, is to this day terrifying to the Petitioner.

Petitioner's appointed lawyer, and a subsequent pro bono retained lawyer, called on the telephone asking to speak to Petitioner. Respondent Sam Gerhardt lied, saying

that Petitioner would be told about the calls. Petitioner was unaware of the calls until 5 months later, when he escaped from a sister facility in Florida named Palm Lane Academy,[2] wholly owned by the Respondents in this case.

Petitioner remained at Mountain Park until one week before his 17th birthday, at which time he was transported against his will to Palm Lane. The Respondents admitted that the reason for sending Petitioner to Palm Lane was the belief that Petitioner was entitled to his liberty at the age of 17 in the state of Missouri, but not until the age of 18 in Florida.

Respondents received correspondence from the sentencing court in Crawford County, Arkansas, and signed off on probation documents which were then sent to the Crawford County Court by the Respondents.

Petitioner was ordered to complete the program at Mountain Park. Petitioner successfully completed that program, according to Mountain Park's own records, on November 10, 2001.

Respondents routinely subject new detainees to forced strip searches, forced showers, and the forced administration of certain drugs. Petitioner and his counsel on appeal suspected the administration of Thorazine, Mellaril, Tegretol, and other "control" drugs used for the purpose of preventing flight or resistance of any kind.

Petitioner was unable to obtain a timely and admissible drug test. Petitioner's urine separated into two distinct layers. The top layer appeared to be thick and gritty and the lowest layer was Pepto Bismol pink in color. This discoloration is consistent with the use of Thorazine. Later testing has shown multiple positive drug tests, from multiple laboratories and doctors or other test providers, for Thorazine, Mellaril, and Tegretol, in a number of former students of Mountain Park and/or Palm Lane.

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[2] Hereinafter sometimes "Palm Lane."